

**CAUSE NO. 2021-19376**

<b>COURTNEY SMITH</b>	§	<b>IN THE DISTRICT COURT OF</b>
<b>PLAINTIFF,</b>	§	
	§	
<b>v.</b>	§	<b>152<sup>nd</sup> JUDICIAL DISTRICT</b>
	§	
<b>DILLARD'S INC., DILLARD'S INC. DBA</b>	§	
<b>DILLARD STORE SERVICES, INC. and</b>	§	
<b>DILLARD TEXAS FOUR-POINT, LLC</b>	§	
<b>DEFENDANTS</b>	§	<b>HARRIS COUNTY, TEXAS</b>

**PLAINTIFF'S FIRST AMENDED PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES Courtney Smith, hereinafter called "Plaintiff", complaining of and about Dillard's Inc., Dillard's Inc. DBA Dillard Store Services, Inc., and Dillard Texas Four-Point, LLC herein called "Defendants" and for cause of action would show the Honorable Court and Jury as follows:

**DISCOVERY CONTROL PLAN LEVEL**

1. Pursuant to rules 190.1 and 190.2 of the Texas Rules of Civil Procedure, Plaintiffs intends to proceed under discovery control plan level 1.

**PARTIES AND SERVICE**

2. Plaintiff Courtney Smith was, and at all times material hereto, is an individual residing in Houston, Harris County, Texas and is a citizen of the State of Texas.
3. Defendant DILLARD'S, INC. (Dillard's) is an Arkansas entity with its principle place of business located at 1600 Cantrell Road., Little Rock, Arkansas 72201. Defendant Dillard's may be served with citation to its registered agent, C.T. Corporation System, 1999 Bryan St. Suite 900, Dallas, Texas 75201-3136.

4. Defendant DILLARD'S INC DBA DILLARD STORE SERVICES, INC is an Arkansas entity with its principle place of business located at 1600 Cantrell Road., Little Rock, Arkansas 72201. Defendant may be served with citation to its registered agent, C.T. Corporation System, 1999 Bryan St. Suite 900, Dallas, Texas 75201-3136.
5. Defendant DILLARD TEXAS FOUR-POINT, LLC is a Texas entity with its principle place of business located at 4501 North Beach Street., Fort Worth, Texas 76137. Defendant DILLARD TEXAS FOUR-POINT, LLC may be served with citation to its registered agent, C.T. Corporation System, 1999 Bryan St. Suite 900, Dallas, Texas 75201-3136.

#### **VENUE AND JURISDICTION**

6. Venue is proper in Harris County, Texas under Tex. Civ. Prac. & Rem. Code § 15.002(a)(1)-(3) because all or a substantial part of the events or omissions giving rise to the claims made the basis of this lawsuit occurred in.
7. This Court has personal jurisdiction over all parties and subject matter jurisdiction because Plaintiff's damages exceed the minimum jurisdictional limits of this Court.
8. Plaintiff seeks only monetary relief of \$250,000 or less.

#### **FACTS**

9. On or about April 4, 2019, Plaintiff was entering a Dillard's store located at 4925 Westheimer Rd. in Houston, Harris County, Texas 77056 at around 12:30 PM.
10. As Mrs. Smith was approaching the second door to enter the store, she slipped and fell on the wet floor and injured her left hip, left ankle, left arm, and the shoe she was wearing

ripped as well. Plaintiff brings premises liability, negligence, and gross negligence claims (“claims”) against the Defendants and seeks both general and special damages.

**COUNT 1 – PREMISES LIABILITY**

11. Plaintiff hereby incorporates as reference paragraph 8-9.

12. Plaintiff was an invitee of Defendants. Defendants had control over and responsibility for premises. The condition on the premises posed an unreasonable risk or harm. The Defendants knew or should have known of the dangerous condition. The Defendants did not exercise reasonable care to reduce or eliminate the risk. The Defendants failure to use such care proximately caused Plaintiff’s injuries.

**COUNT 2 – NEGLIGENCE**

13. Plaintiff hereby incorporates as reference paragraph 8-9.

14. Plaintiff was an invitee of Defendants at the time she entered the store. Defendants owed Plaintiff a legal duty to exercise ordinary care in keeping the premises safe. Defendants breached that duty which proximately caused Plaintiff’s injuries.

**COUNT 3 – GROSS NEGLIGENCE**

15. Plaintiff hereby incorporates as reference paragraph 8-9.

16. When viewing Defendants acts and omissions objectively from the standpoint of Defendants at the time, its occurrence involved an extreme degree of risk, considering the probability and Defendant’s had actual, subjective awareness of the risk involved but nevertheless proceeded with its conduct with conscious indifference to the rights, safety, or welfare of others.

**DAMAGES**

17. Plaintiff seeks damages in the amount that is within the jurisdictional limits of the court.

18. As a direct and approximate cause of the Defendant's failure to use reasonable care, the result of which made the basis of this action, Plaintiff was caused to suffered injuries and incurred the following damages:

- a. Medical expenses in the past and future;
- b. Physical pain and suffering in the past and future.
- c. Physical impairment /Loss of enjoyment of life in the past and future.
- d. Mental anguish past and future;
- e. Disfigurement past and future;
- f. Cost of suit;
- g. Prejudgment and post judgment interest, and
- h. All other relief in law and in equity to which Plaintiff may be entitled. A demand for judgment for all other relief to which the party deems himself entitled.

**REQUEST FOR JURY TRIAL**

19. Plaintiff respectfully asserts her constitutional right to trial by Jury.

**PRAYER**

**WHEREFORE, PREMISES CONSIDERED**, Plaintiff, Courtney Smith respectfully requests that the Defendant be cited to appear and answer herein, and that upon a final trial of this cause, have judgment against Defendant, jointly and severally, for damages, together with prejudgment interest from the date of injury through the date of judgment, at the maximum rate

allowed by law; post judgment interest at the legal rate, cost of court, and such other and further relief to which Plaintiff may be entitled at law or in equity.

Respectfully submitted,



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